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LOK SABHA

The following report of the Joint Committee on the Bill further to amend the Constitution of India, was presented to the Lok Sabha on 20th September, 1954:—

Composition of the Joint Committee

LOK SABHA

1. Shri Jawaharlal Nehru—*Chairman*.
2. Shri Rafi Ahmed Kidwai.
3. Shri Upendranath Barman.
4. Shri V. B. Gandhi.
5. Shri Kotha Raghuramaiah.
6. Shri Narhar Vishnu Gadgil.
7. Shri Tek Chand.
8. Shri A. M. Thomas.
9. Shri S. Sinha.
10. Shri C. D. Pande.
11. Shri Raghubir Sahai.
12. Shri Shriman Narayan Agarwal.
13. Shri R. Venkataraman.
14. Shri Nemi Chandra Kasliwal.
15. Shri Raghavendrarao Srinivasrao Diwan.
16. Shri Liladhar Joshi.
17. Shri Ranbir Singh Chaudhuri.
18. Shri K. S. Raghavachari.
19. Shri Bhawani Singh.

20. Shri N. C. Chatterjee.
21. Dr. D. Ramchander.
22. Dr. A. Krishnaswami.
23. Shri T. T. Krishnamachari.

RAJYA SABHA

24. Shri C. C. Biswas.
25. Shri S. V. Krishnamoorthy Rao.
26. Shri Biswanath Das.
27. Shri Fakhruddin Ali Ahmed.
28. Dr. W. S. Barlingay.
29. Shri Jagan Nath Kaushal.
30. Shri Chandulal P. Parikh.
31. Shri R. C. Gupta.
32. Shri V. Venkataramana.
33. Shrimati Parvathi Krishnan.
34. Shri H. C. Mathur.
35. Shri B. C. Ghose.

SECRETARIAT

Shri M. N. Kaul, *Secretary*.

Shri S. L. Shakdher, *Joint Secretary*.

Report of the Joint Committee

I, the Chairman of the Joint Committee to which the Bill* further to amend the Constitution of India was referred, having been authorised to submit the report on their behalf, present their Report, with the Bill as passed by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on the 6th September, 1954. The motion for reference of the Bill to a Joint Committee of the Houses (*vide* Appendix I) was moved by Shri T. T. Krishnamachari on the 10th September, 1954, discussed on the 10th and 11th September, 1954 and adopted on the 13th September, 1954.

3. The Rajya Sabha discussed the motion on the 15th and the 16th September, 1954 and concurred in the said motion on the 16th September, 1954 (*vide* Appendix II).

*Published in Part II—Section 2 of the *Gazette of India, Extraordinary*, dated the 6th September, 1954.

4. The Committee held two sittings—on the 17th and the 18th September, 1954.

5. The Committee have considered the Bill and are of the opinion that the powers sought to be transferred to the concurrent list are necessary in the national interest. The Committee approve of the Bill as introduced in the House subject to a verbal change in clause (a) of the proposed entry 33. The clause as amended reads as follows:—

“(a) the products of any industry where the control of such industry by the Union is declared by Parliament by law to be expedient in the public interest, and imported goods of the same kind as such products;”

6. The Committee recommend that the Bill as amended be passed.

NEW DELHI;
The 20th September, 1954.

JAWAHARLAL NEHRU,
Chairman, Joint Committee.

Minute of Dissent

We are definitely of the opinion that the Constitution (Third Amendment) Bill, if passed into law as it stands, will constitute a serious encroachment on the rights and powers of the constituent units of the Indian Republic. Such powers were deliberately conferred on the States by the makers of the Constitution. It is perfectly clear that the Constituent Assembly wanted to confer concurrent powers of legislation on Parliament in respect of matters specified in article 369 only for a limited period. That period was consciously limited to a period of 5 years. That decision was taken after full and careful consideration of the tenure of Parliament's powers to make such laws which are exclusively in the State List. Suggestions were put forward in the Constituent Assembly to increase the period from 5 to 10 to 15 years but these were turned down. Obviously the framers of the Indian Constitution did not want to confer such powers on Parliament for an indefinite period.

Under article 246 of the Constitution, the Legislature of any State has exclusive powers to make laws with respect to matters enumerated in List II of the Seventh Schedule (State List). Although the Constituent Assembly framed Concurrent List of subjects over which the Union and the States would have concurrent powers of legislation, the Constitution makers did not desire to place matters enumerated in article 369 in the Concurrent List. What powers would really be left to State Legislatures if Parliament takes over for itself powers to frame laws in regard to trade and commerce within a State in respect of raw cotton, food-stuffs, jute, cattle fodder, oilseeds, etc.? State autonomy would be rendered illusory and State powers and rights would be progressively pulverised if Parliament exercises legislative powers and functions over these subjects. Immediately Parliament in its legislative judgment enacts appropriate laws within the ambit of its legislative competence in respect of certain matters, then the legislative authority of State Legislatures is *pro tanto* abrogated. Under article 369 if Parliament fully exercises its authority, as it has already substantially done, the doctrine of "occupied field" will preclude the States from exercising their legislative powers in respect of these matters. The undesirability of thus permanently depriving the State Legislatures from effectively exercising their legislative judgment in respect of certain vital matters which are inherently appurtenant to the State field weighed with the Constituent Assembly in refusing to grant a longer lease under article 369 to Parliament.

We are fully alive to the necessity of clothing Parliament with necessary authority to keep certain matters under Union control in view of the needs of planning. The situation which confronted the Constituent Assembly when framing the Constitution was not basically different from what it is today. The framers of the Constitution were also fully alive to the needs of planning and the maintenance of control by the Centre over specified matters. Nevertheless they came to the considered decision that legislative powers in respect of these commodities should be outside the competence of Parliament's authority after a specified period. It will not be right and proper for this Parliament to amplify Entry 33 in List III of Schedule VII of the Constitution so as to make Parliament's Legislative power a permanent feature of our Constitution. We recognise that this is going to be placed in the Concurrent List. Yet we should point out that the permanent enactment enlarging Entry 33 has been either opposed or not accepted by a large number of State Governments. The Government of Bihar has clearly expressed its opposition to the permanent transfer of the items in question to the Concurrent List. That Government has suggested temporary retention of powers by

the Centre by keeping alive Essential Supplies (Temporary Powers) Act, 1946 for a further period of 5 years or so through a suitable amendment of article 369 of the Constitution. After giving our careful consideration to the weighty observations of Ministers in the Joint Committee as also the considered views of the different State Governments, we feel that, if necessary, the Government of Bihar's proposal may be accepted.

The Psychological aspect of this important constitutional problem should also be taken into account. Nothing should be done to make the States feel that Parliament in the plenitude of its powers has chosen to keep the sword of Damocles hanging over the heads of various units. The assumption of such wide powers by the Centre will cripple the initiative of the States. Local and regional enterprise so essential for a more even development of industries in different States is likely to be paralysed by a concentration of power at the Centre. It should not be ignored that the success of planning depends upon the willing co-operation of the States.

A good deal of reliance has been placed by the Government on the Report of the Commodities Control Committee in support of this Bill. It should be emphasised that it was not within the purview of this Committee to enquire into the question of distribution of powers as between the Centre and the States. Its scope was limited. It was set up "to examine the existing controls and streamline the various control orders and notifications issued by the Government of India". Without casting any reflection on any individual member of the Committee, we deem it our duty to point out that 4 out of the 5 members of the Committee were either Joint Secretaries or Deputy Secretaries to the four Ministries of the Central Government, and when one Joint Secretary left India on official duty, an Economic and Statistical Adviser to the Government of India was appointed in his place. It is a matter for regret that not one representative of the State Governments was represented on the Committee. It is not surprising, therefore, that the Committee viewed with favour a permanent accession of powers to the Centre at the expense of the States.

Fully conscious of the responsibilities of our position as representatives of the people as well as of the States, we deem it our duty to caution Parliament not to confer upon the Centre permanently legal powers to control the supply and distribution of vital commodities essential to the building up of the economy of States. We are definitely of the opinion that the Centre must be divested of legal powers of control after a specified period of time over these commodities. We suggest that the period specified in Article 369, if its

extension be considered essential, may be altered so as to make the total period of Parliament's competence extend up to ten years.

N. C. CHATTERJEE,
K. S. RAGHAVACHARI,
A. KRISHNASWAMY,
PARVATHI KRISHNAN,
BIMAL COMMAR GHOSE,
V. VENKATARAMANA,
HARISH CHANDRA MATHUR.

NEW DELHI;
The 20th September, 1954.

THE CONSTITUTION (THIRD AMENDMENT) BILL, 1954

(AS AMENDED BY THE JOINT COMMITTEE)

(Words underlined indicate the amendments suggested by the Committee)

BILL No. 40B OF 1954

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the fifth year of the Republic of India as follows:—

1. Short title.—This Act may be called the Constitution (Third Amendment) Act, 1954.

2. Amendment of the Seventh Schedule.—In the Seventh Schedule to the Constitution, for entry 33 of List III, the following entry shall be substituted, namely:—

“33. Trade and commerce in, and the production, supply and distribution of,—

(a) the products of any industry where the control of such industry by the Union is declared by Parliament by law to be expedient in the public interest, and imported goods of the same kind as such products;

(b) foodstuffs, including edible oilseeds and oils;

(c) cattle fodder, including oilcakes and other concentrates;

(d) raw cotton, whether ginned or unginned, and cotton seed; and

(e) raw jute.”

M. N. KAUL,
Secretary.